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10
11 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2006-07-0934

14 DEBORA ANN BECHER, RN
P.O. Box 9214
15 Cedarpines Park, CA 92322

A C C U S A T I O N

2009-252

16 Registered Nursing License No. 574743

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On December 6, 2000, the Board of Registered Nursing (Board) issued Registered
25 Nursing License Number 574743 to Respondent Debora Ann Becher. The Registered Nursing
26 License was in full force and effect at all times relevant to the charges brought herein and
27 expired on June 30, 2008.

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4. Section 118, subdivision (b), of the Business and Professions Code (“Code”) provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

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8. Section 2761 of the Code states in relevant part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

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- (f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.
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9. Section 2762 of the Code states in relevant part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.
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10. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

11. Section 2811(b) of the Code provides, in pertinent part, that the Board may renew an expired license at any time within eight years after the expiration.

12. California Code of Regulations, title 16, section (Regulation) 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

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- 13. Regulation 1445, states in part pertinent:
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1 (b) When considering the suspension or revocation of a license
2 on the grounds that a registered nurse has been convicted of a crime,
3 the board, in evaluating the rehabilitation of such person and his/her
4 eligibility for a license will consider the following criteria:

5 (1) Nature and severity of the act(s) or offense(s).

6 (2) Total criminal record.

7 (3) The time that has elapsed since commission of the act(s)
8 or offense(s).

9 (4) Whether the licensee has complied with any terms of parole,
10 probation, restitution or any other sanctions lawfully imposed
11 against the licensee.

12 (5) If applicable, evidence of expungement proceedings pursuant
13 to Section 1203.4 of the Penal Code.

14 (6) Evidence, if any, of rehabilitation submitted by the licensee.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct – Obtaining or Possessing Controlled Substances)**

17 14. Respondent is subject to disciplinary action under Code sections 490, 2761(a) and
18 2762 (a), on the grounds that she obtained or possessed controlled substances, as defined in
19 Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous
20 drug or dangerous device as defined in Section 4022. The circumstances are as follows:

21 a. On November 4, 2004, the Board received a complaint from Katherine
22 Eaves, Chief Nursing Officer, Riverside County Regional Medical Center (RCRMC), who
23 reported that on that date an empty vial of Morphine Sulfate, a controlled substance, and a
24 partially filled vial of Normal Saline with a hypodermic needle stuck in it were found atop a
25 microwave in the utility room of the Progressive Care Unit (PCU) at RCRMC. The manager of
26 the PCU ran a 24-hour activity report for Morphine Sulfate from the PYXIS dispensing machine
27 and reconciled all doses for that drug except for those withdrawn from the machine by
28 Respondent, who was then assigned to work at RCRMC from ProTem Nursing registry.
Subsequent review of relevant records of patients for whom Respondent withdrew narcotics
during October 2007, at RCRMC showed that:

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1 1. Over 100 doses of narcotics, including Morphine Sulfate and
2 Hydromorphone, were withdrawn by Respondent but not documented on the medication
3 administration record (MAR);

4 2. Over 40 drug withdrawals did not match the amount documented as given,
5 in that the amount withdrawn was greater than amount given and no wastage was indicated;

6 3. When doses were indicated on the MAR, times were inconsistent with the
7 time of withdrawal of the narcotic from PYXIS, both earlier and later;

8 4. Frequency of withdrawal exceeded the frequency of the medication order;

9 5. The frequency with which respondent documented administering pain
10 medication often exceeded that of other care givers, was not supported by documentation of the
11 patients' pain levels, and patients purportedly receiving medication from Respondent had not
12 been similarly medicated prior or subsequent to her interventions;

13 6. Respondent often obtained telephone orders for the drugs she withdrew;

14 7. In seven instances, Respondent circled a time on the MAR but did not
15 show any wastage of the drug withdrawn;

16 8. On 20 separate occasions, Respondent withdrew one to nine doses of
17 narcotics on a patient with no documentation of any needed pain medication administration; and

18 9. On at least nine occasions, orders were expired or never ordered for the
19 drug withdrawn.

20 b. A subsequent review of RCRMC's records, randomly picked from June through
21 August 2007, by Department of Health Services personnel, revealed a similar pattern as to
22 Respondent. Altogether, Respondent removed 110.5 milligrams of Hydromorphone from
23 PYXIS but failed to document administering it to patients on any RCRMC records. Respondent
24 also removed Hydromorphone from PYXIS without a doctor's order. Each of these acts by
25 Respondent was a violation of RCRMC's Controlled Substance Wastage Agreement.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(March 19, 2008 Misdemeanor DUI Conviction)**

3 17. Respondent is subject to disciplinary action for unprofessional conduct under
4 section 2761(a) and (f), and CCR section 1444 on the grounds that she was convicted of a crime
5 substantially related to her qualifications, functions and duties as a registered nurse. The
6 circumstances are as follows:

7 a. On March 19, 2008, in the Superior Court of the State of California,
8 County of San Bernardino, in proceedings entitled *People v. Debora Ann Becher Caskey*, Case
9 No. TSB701228, Respondent entered a plea of guilty to violating Vehicle Code section 23152(b)
10 (driving under the influence with .08% or above blood alcohol), a misdemeanor.

11 b. On March 19, 2008, pronouncement of judgment was withheld and
12 Respondent was granted conditional and revocable release for a period of 36 months on the
13 following terms: violate no laws other than minor traffic laws; pay a \$1,595 fine; pay a \$135
14 payment plan fee; and enroll in and complete a first-offender alcohol program for four months,
15 by April 1, 2008, and September 30, 2008, respectively.

16 c. The facts and circumstances surrounding this offense are that on
17 July 12, 2007, at 1630 hours, while driving a 19990 Chevrolet Suburban westbound on Waters
18 Drive in an unincorporated area of San Bernardino County, Respondent lost control of her
19 vehicle and swerved off the road, sideswiping two trees and impacting a third before coming to
20 rest and causing major damage to her vehicle. The arresting officer contacted Respondent in the
21 emergency room at Loma Linda Hospital, and cited her with unlawfully driving a vehicle while
22 having a blood alcohol level of 0.08 percent and more, by weight, in her system, in violation of
23 Vehicle Code section 23152(b), and with a violation of Vehicle Code section 2315(a) (DUI).
24 The second charge was later dismissed in exchange for Respondent's pleading guilty to violating
25 Vehicle Code section 23152(b).

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct)**

3 18. Respondent is subject to disciplinary action for unprofessional conduct under
4 section 2761(a) and CCR section 1444, in that she drove under the influence of alcohol, as set
5 forth above in paragraph 17 above, which is realleged and incorporated herein by reference.

6 **PRAYER**


7 WHEREFORE, Complainant requests that a hearing be held on the matters herein
8 alleged, and that following the hearing, the Board issue a decision:

9 1. Revoking or suspending Registered Nursing License Number 574743 issued to
10 Debora Ann Becher;

11 2. Ordering Debora Ann Becher to pay the Board the reasonable costs of the
12 investigation and enforcement of this case, pursuant to Business and Professions Code section
13 125.3; and

14 3. Taking such other and further action as deemed necessary and proper.
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16 DATED: 4/15/09

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19 RUTH ANN TERRY, M.P.H., R.N.
20 Executive Officer
21 Board of Registered Nursing
22 Department of Consumer Affairs
23 State of California
24 Complainant
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